

BEFORE THE THREE-MEMBER DUE PROCESS HEARING PANEL
EMPOWERED PURSUANT TO §162.961 R.S.MO.

)
)
Petitioner,)
)
vs.)
)
KANSAS CITY, MISSOURI)
SCHOOL DISTRICT,)
)
Respondent)

MEMORANDUM & ORDER

On November 13, 2000 the Chairperson received "Respondent Kansas City Missouri School District's Motion to Dismiss" including suggestions in support thereof. Essentially, Respondent argues that any complaint which Petitioner had against the Respondent School District is moot because the Petitioner was not attending the Respondent School District at the time the Request for Due Process Hearing was made on September 18, 2000; that at the time the Petitioner was enrolled in another school, the Kansas City Career Academy which is separate and distinct from the Respondent School District. Respondent further argues that the Kansas City Career Academy is a Charter School and as such has the duty to provide special educational services to the Petitioner, and the Respondent is not an agent of or joint venturer with the Kansas City Career Academy. Finally, Respondent argues that the panel does not have jurisdiction to hear Section 504 claims under the Rehabilitation Act.

On November 20, 2000 the Chairperson received a "Motion to Dismiss with Suggestions Thereof" from the Petitioner which states in part as follows:

“Comes now, by and through counsel, Paul S. Franco and respectfully requests that the Due Process be dismissed against the Kansas City Missouri School District.”

The Chairperson sustains the Petitioner’s Motion and hereby dismisses the Request for a Due Process Hearing against the Kansas City Missouri School District. Since the Petitioner’s Motion to Dismiss has been sustained, the Respondent’s Motion to Dismiss is moot. Accordingly, it is denied.

Accordingly, it is hereby ordered that the Petitioner’s Request for a Due Process Hearing which was stamped filed by the Department of Elementary and Secondary Education on September 27, 2000 is hereby dismissed against the Respondent, with prejudice, this ____ day of November, 2000.

George J. Bude, Chairperson

Copies mailed to the following:

Mr. Paul Franco
Ms. Linda Salfrank
Ms. Trina Ricketts LeRiche
Mr. Rand Hodgson, Panel Member
Mr. Jerry Wright, Panel Member
Ms. Pam Williams, DESE